

**WORKFORCE DEVELOPMENT DEPARTMENT[871]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 96.11, the Director of Workforce Development hereby amends Chapter 22, "Employer Records and Reports," and Chapter 24, "Claims and Benefits," Iowa Administrative Code.

These amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 12, 2017, as **ARC 3028C**. No comments were received. The Notice was on the Administrative Rules Review Committee agenda on May 3, 2017. No questions or comments were received during this public meeting. This Adopted and Filed rule making differs from the Notice of Intended Action. The proposed amendments to rules 871—22.3(96) and 871—22.16(96), to paragraphs 24.2(1)"e" and "g" and to paragraph 25.7(6)"c" were not adopted by the Department; amendments to those rules and paragraphs may be proposed in a future rule making.

This rule making does not have a fiscal impact on the State of Iowa.

Waiver provisions pursuant to Iowa Code section 17A.4(2) are not applicable.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments implement Iowa Code chapter 96.

These amendments will become effective July 12, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 22.1(3) as follows:

**22.1(3)** Such payroll records may be preserved by the employer in ~~microfilm form~~ an electronic format, provided the employer: is willing to provide access to such records as may be required by the department.

~~a. Keeps a microfilm viewer available, and~~

~~b. Is willing to transcribe any information that may be required by the department.~~

ITEM 2. Amend subrule 24.1(21) as follows:

**24.1(21)** *Benefit year, individual.* The benefit year is a period of 365 days (366 in a leap year) beginning with and including the starting date of the benefit year. The starting date of the benefit year is always on Sunday and is ~~usually~~ the Sunday of the current week in which the claimant first files a valid claim unless the claim is backdated as allowed under ~~subrule 24.2(1), paragraph "h."~~ 24.2(1) "h."

ITEM 3. Amend paragraph **24.2(1)"h"** as follows:

*h.* Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual ~~reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule~~ files a claim for benefits.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

~~Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;~~

~~There is scheduled filing in the following week because of a mass layoff;~~

1. The failure of the department to recognize the expiration of the claimant's previous benefit year;

~~The individual is given incorrect advice by a workforce development employee;~~

2. The claimant filed an interstate claim against another state which has been determined as ineligible;

~~Failure on the part of the employer to comply with the provisions of the law or of these rules;~~

~~Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;~~

~~Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.~~

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of a calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

ITEM 4. Amend subrule 24.17(1) as follows:

**24.17(1)** Employer notice specified vacation or holiday pay only. The Form 65-5317, Notice of Claim, the Form 62-2048, Request for Federal Wage and Separation Information, and the Form 62-2049, Request for Wage and Separation Information on Federal Employment Additional Claim, which are returned by the employer for the purpose of notification of vacation pay, shall be used as notification to the department that vacation pay is applicable. The Forms 65-5317, 62-2048, and the 62-2049 received in the administrative office shall be routed to the appropriate office for the following action:

a. Upon receipt of the vacation information, the unemployment insurance representative shall ~~immediately issue the appropriate decision concerning the vacation pay to the employer and to the claimant. The unemployment insurance representative shall then check the current status of the claim on the computer record to ascertain if any weeks have been reported.~~ compare the amount of vacation reported by the employer with the computer record. If the computer record shows any discrepancies with the vacation information provided by the employer that would affect the claimant's eligibility for unemployment insurance benefits for any week claimed, the claimant shall be afforded the opportunity to present facts and evidence, which may include an informational fact-finding interview scheduled by the department. The unemployment insurance representative may afford the employer the opportunity to present additional facts and evidence after ascertaining such from the claimant. If the employer is afforded such an opportunity to provide additional facts and evidence, the unemployment insurance representative shall also afford the claimant the opportunity to present additional facts and evidence.

b. ~~The representative shall compare the amount of vacation reported by the employer with the computer record. If the computer record shows any discrepancies, the representative shall initiate immediate action to set up an overpayment or underpayment as appropriate. After affording the claimant an opportunity to present facts and evidence regarding the receipt of vacation pay, and potentially affording the employer and the claimant an opportunity to provide additional facts and evidence, the representative shall consider all information submitted by the interested parties and issue to the employer and the claimant the appropriate decision concerning the vacation pay. The unemployment insurance representative shall then check the current status of the claim on the computer record to ascertain if any weeks have been reported.~~

c. If the computer record shows that the claimant has not reported or claimed for some or all of the weeks indicated for the vacation period, the unemployment insurance representative shall take no further action on the weeks not claimed.

d. The claimant shall be instructed to only report vacation pay applicable to the first week. The claimant shall also be instructed that vacation pay designated by the employer in excess of one week may result in an overpayment of benefits.

ITEM 5. Amend subrule 24.19(2) as follows:

**24.19(2)** Each interested party will be afforded the opportunity to have ~~an in-person~~ a fact-finding interview by telephone regarding matters which are scheduled for a hearing. ~~However, when it is~~

~~impractical for the department to conduct an in-person fact-finding, the fact-finding may be conducted in whole or in part by telephone at the discretion of the department.~~ An interested party may request an in-person fact-finding interview as a reasonable accommodation under the federal Americans with Disabilities Act of 1990, as amended, or the Iowa Civil Rights Act of 1965, as amended. The department shall reserve the right to call any interested party in for an in-person fact-finding interview.

ITEM 6. Amend subrule 24.35(3) as follows:

**24.35(3)** Delivery by mail. Any notice, report form, determination, decision, or other document mailed by the division shall be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the document, unless otherwise indicated by the facts.

ITEM 7. Adopt the following **new** subrule 24.35(4):

**24.35(4)** Electronic delivery. Any notice, report form, determination, decision, or other document sent by the division via the U.S. Department of Labor state information data exchange system shall be considered as having been given to the party to whom it is directed on the date it is submitted on the system. The date submitted shall be presumed to be the date of the document, unless otherwise indicated by the facts.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/17.